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**CERTIFICATE OF FACSIMILE TRANSMISSION UNDER 37 C.F.R. §1.8**  
I hereby certify that this correspondence, totaling 12 pages including rectified attachments, is being facsimile transmitted to the United States Patent and Trademark Office at facsimile no.: 703-872-8308 (Central number) on the below date:  
Date: September 7, 2004 Name: Lawrence G. Almada Signature: [Signature]

BRINKS  
HOFER  
GILSON  
& LIONE

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE:

In re Appln. of: SCOTT E. BOATMAN et al.  
Appln. No.: 09/848,742  
Filed: May 3, 2001  
For: MEDICAL DEVICE INCLUDING UNITARY,  
CONTINUOUS PORTION OF VARYING  
DUROMETER

Examiner: C. Williams

Art Unit: 3733

Attorney Docket No: 8627-189

Mail Stop Amendment  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

## TRANSMITTAL

Sir:

Attached is/are:

☒ Reply Under 37 C.F.R. § 1.111 and Response to Notice of Non-Compliant Amendment Under 37 C.F.R. § 1.121

☐ Return Receipt Postcard

Fee calculation:

☒ No additional fee is required.

☐ Small Entity.

☐ An extension fee in an amount of \$\_\_\_\_\_ for a \_\_\_\_\_-month extension of time under 37 C.F.R. § 1.136(a).

☐ A petition or processing fee in an amount of \$\_\_\_\_\_ under 37 C.F.R. § 1.17(\_\_\_\_).

☐ An additional filing fee has been calculated as shown below:

|   | Claims Remaining<br>After Amendment | Highest No.<br>Previously Paid For | Present<br>Extra | Small Entity |           | or | Not a Small Entity |           |
|---|-------------------------------------|------------------------------------|------------------|--------------|-----------|----|--------------------|-----------|
|   |                                     |                                    |                  | Rate         | Add'l Fee |    | Rate               | Add'l Fee |
| Total                                     | Minus                               |                                    |                  | x \$9=       |           |    | > \$10=            |           |
| Indep.                                    | Minus                               |                                    |                  | x \$43=      |           |    | > \$88=            |           |
| First Presentation of Multiple Dep. Claim |                                     |                                    |                  | + \$145=     |           |    | + \$280=           |           |
|   |                                     |                                    |                  | Total        | \$        |    | Total              | \$        |

Fee payment:

☐ A check in the amount of \$\_\_\_\_\_ to cover the above-identified fee(s) is enclosed.

☐ Please charge Deposit Account No. 23-1925 in the amount of \$\_\_\_\_\_. A copy of this Transmittal is enclosed for this purpose.

☐ Payment by credit card in the amount of \$\_\_\_\_\_ (Form PTO-2038 is attached).

☒ The Director is hereby authorized to charge payment of any additional filing fees required under 37 CFR § 1.18 and any patent application processing fees under 37 CFR § 1.17 associated with this paper (including any extension fee required to ensure that this paper is timely filed), or to credit any overpayment, to Deposit Account No. 23-1925.

Respectfully submitted,

[Signature]  
Lawrence G. Almada (Reg. No. 46,51)

09/20/2004 TRANSMITTED 00000000 09/20/2004 09/20/2004  
September 7, 2004  
Date